

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 644 of 1994

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SURABHAI NARSIBHAI VANKAR AND ANOTHER

Versus

MADHABHAI DENABHAI VANKAR & 13ORS.

Appearance:

MR PRASHANT G DESAI for Petitioners
MR JIVANLAL G SHAH for Respondent No. 1
NOTICE SERVED for Respondent No. 12
PUBLIC PROSECUTOR for Respondent No. 14

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 17/06/98

ORAL JUDGEMENT

This petition is essentially preferred for issuance of writ of mandamus against the respondents Nos. 1 to 11 private citizens for violation of the provisions contained in the Bombay Prevention of Ex Communication Act, 1949. In my view the petition is not maintainable because the Bombay Prevention of Ex Communication Act,

1949, has been held to be void by the Supreme Court in the matter of SARDAR SYEDNA TAHER SAIFUDDIN SAHEB VS. STATE OF BOMBAY (AIR 1962, SC, 853). Besides, even if the Act were in operation, adequate remedy against violation of the provisions of the said Act has been provided under the Act and the writ petition of the present nature, therefore, would not be maintainable.

The petition is, therefore, dismissed. Rule is discharged. No order as to costs.

.....

JOSHI